

Message Text

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PAGE 01 CARACA 11010 112009Z
ACTION L-03

INFO OCT-01 ARA-10 ISO-00 JUSE-00 MCT-01 CIAE-00
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FM AMEMBASSY CARACAS
TO SECSTATE WASHDC PRIORITY 9935

C O N F I D E N T I A L CARACAS 11010

E.O. 11652: GDS
TAGS: PDIP
SUBJECT: US GOV INFORMATION EXCHANGE AGREEMENT

REF: STATE 264677

1. MY COMMENTS ON REFTEL ARE AS FOLLOWS:

(A). WE SHOULD BE CLEAR THAT WHAT PRESIDENT PEREZ MEANT WHEN HE USED THE TERM "INSTITUTIONALIZE" (CARACAS 7549) WAS THE SYSTEMATIZING AND EXPANSION OF THE FLOW OF INTELLIGENCE INFORMATION, I.E. THE VERY POINT TREATED IN PARA 4 REFTEL. I DOUBT THAT PRESIDENT PEREZ WOULD PERCEIVE THE PROPOSED AGREEMENT AS RESPONDING TO HIS REQUEST; IN HIS TERMS IT DEALS WITH ANOTHER DIMENSION.

(B). IF, AS I GATHER, WE ARE NOT PREPARED LITERALLY TO PUT FORTH EVERY EFFORT TO EXCHANGE INTELLIGENCE (EVEN IF FOR GOOD AND PROPER REASONS), THEN I THINK IT WRONG TO SIGN AN AGREEMENT COMMITTING OURSELVES TO OUR BEST EFFORTS TO DO SO. IN THE LIGHT OF PARA 4 REFTEL, ARTICLE 3 OF THE AGREEMENT IS MISLEADING.

(C). I SUSPECT THAT THE GOV WOULD HAVE TROUBLE
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CONCLUDING SUCH AN AGREEMENT, JUDGING FROM THE BOEING CASE. ALTHOUGH THE DRAFT DOES NOT BIND EITHER GOVERNMENT TO ANY SPECIFIC ACT, IT DOES COMMIT EACH TO GENERAL PRINCIPLES OF JURISPRUDENCE AND PROCEDURE. AS A GENERIC AGREEMENT NOT RELATED TO A SPECIFIC CASE OR INVESTIGATION, IT WOULD REQUIRE CONGRESSIONAL RATIFICATION, AND I AM NOT

SURE THE GOV WILL WANT TO GO THROUGH THAT ROUTE
NOW. (THE BOEING AGREEMENT WAS TREATED HERE AS
AN EXECUTIVE AGREEMENT BETWEEN TWO DEPARTMENTS;
I DO NOT THINK THEY WILL BE ABLE TO HANDLE THIS
ONE THAT WAY.)

(D). IN VIEW OF THAT, I WONDER IF IT IS NECESSARY
TO HAVE SUCH AN AGREEMENT. WE DO NOT PARTICULARLY
WANT TO FORMALIZE INFORMATION EXCHANGE AND SHOULD
NOT AROUSE EXPECTATIONS IN CONNECTION THEREWITH, AND I AM
NOT SURE THAT THE JUDICIAL INVESTIGATION PROCESS (OR
THE INTELLIGENCE EXCHANGE) WILL BE ANY DIFFERENT WITH AN
AGREEMENT THAN WITHOUT IT. FOR EXAMPLE, EVEN HAD THE
AGREEMENT BEE IN EFFECT, THE GOV RESPONSE ON THE LETELIER CASE
WOULD MOST LIKELY NOT HAVE BEEN ANY DIFFERENT THAN IT WAS,
SINCE EVERY GOV EXPANATION OF WHAT THEY COULD AND COULD
NOT DO IS LISTED UNDER ARTICLE 7 (2).

(E) REFTEL STATES WE HAVE HAD "SERIOUS PROBLEMS"
OBTAINING GOV COOPERATION. DOES THIS REFER TO THE
LETELIER CASE? DOES IT REFER TO ANYTHING ELSE?

2. IF IT IS DEEMED ADVISABLE TO PROPOSE A JUDICIAL
INVESTIGATION AGREEMENT THAN I WOULD URGE THAT (A) IT
NOT BE PRESENTED AS A REPOSENSE TO PEREZ' REQUEST
FOR INTELLIGENCE EXCHANGE AND (B) THAT ARTICLE 3
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AND OTHER REFERENCES TO INTELLIGENCE EXCHANGE
BE DELETED.
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